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Message Text

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PAGE 01 KINGST 02412 121856Z

71
ACTION ARA-20

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

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---------- 103155
R 121830Z JUL 74
FM AMEMBASSY KINGSTON
TO SECSTATE WASHDC 5192
INFO AMEMBASSY BRIDGETOWN
AMEMBASSY GEORGETOWN
AMEMBASSY PORT OF SPAIN
COMNAVBASE GTMO
DDI WASHDC

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E.O. 11652: N/A
TAGS: PINS JM
SUBJ: GUN COURT UNDER FIRE

REF: KINGSTON 999

1. AS ANTICIPATED, THE CONSTITUTIONALITY OF THE GUN COURT ACT IS BEING PUT TO THE TEST IN JAMAICA'S HIGHEST COURT, THE COURT OF APPEAL. THE FIRST FOUR APPEALS, INVOLVING COMMON LEGAL GROUNDS, WERE PRESENTED TO A THREE-MAN PANEL OF THE COURT OF APPEAL YESTERDAY AND HEARINGS ARE EXPECTED TO CONTINUE FOR SOME TIME. THE APPELLANTS ARE REPRESENTED BY AN IMPRESSIVE ARRAY OF ATTORNEYS INCLUDING, HARVEY DA COSTA (DA COSTA COMMISSION), RICHARD MAHFOOD, R.N.A. HENRIQUES, AND OTHERS.

2. THE FIRST DAY'S SESSION COVERED THE QUESTION OF "PUBLIC TRIAL", AND IT WAS ARGUED ON BEHALF OF THE APPELLANTS THAT THE PRINCIPAL OF PUBLICITY HAS NEVER BEEN IN QUESTION IN THE ENTIRE HISTORY OF THE COMMON LAW (SIC, DUE TO THE FACT THAT THE COURTS IN THEIR ORIGINAL FORMS WERE REALLY PUBLIC MEETINGS OF MEMBERS OF THE COM-
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MUNITY. (THE GUN COURT ACT PROVIDES SPECIFICALLY THAT GUN COURT

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

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PROCEEDINGS MAY BE HELD IN CAMERA.)

3. SUBSEQUENT SITTINGS WILL DEAL WITH THE CONSTITUTIONALITY OF THE LEGISLATIVE SCHEME - THE REASONABLENESS OF RESTRICTIONS, THE SENTENCE AND REVIEW BOARD,JUDRISDICTION OF THE COURT AND MAGISTRATE, ADMISSION OF EVIDENCE, AND NOTICE OHDNTJURE OF CASE. EACH ISSUE IS TO BE HANDLED BY A DIFFERENT ATTORNEY.

4. COMMENT: THE GUN COURT CASE WILL BE A MAJOR TEST FOR THE MANLEY GOVT AND, DESPITE THE OPPOSITION'S SUPPORT FOR THE ANTI-CRIME CAMPAIGN, MAY OFFER SOME CHOICE OPPORTUNITIES FOR OPPOSITION ASSERTIVENESS. THE JAMAICAN CONSTITUTION WAS WRITTEN BY AND FOR THE MIDDLE CLASS, WHICH IS INCREASINGLY SKEPTICAL OF MANLEY ANYWAY, AND WHICH CAN BE EXCITED BY ANY TAMPERING WITH THEIR PROTECTIVE COVER. THE LEGAL COMMUNITY HAS NEVER ACCEPTED THE GUN COURT AND WILL MAKE EVERY EFFORT TO SECURE ITS DEMISE.
GERARD

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